

SMALL CLAIMS COUNTERCLAIM

Counterclaimant (**original defendant**)

Address

City, State, Zip

Telephone number

Vs.

CAUSE NO. 29D06-_____

Attorney (optional) _____

Address _____

Counterclaim defendant (**original plaintiff**)

Address

City, State, Zip

City _____ State _____ Zip _____

Telephone _____ Attorney No. _____

NOTICE OF COUNTERCLAIM

TO THE COUNTERCLAIM DEFENDANT (**original plaintiff**):

You have been counterclaimed against by the original defendant. This counterclaim, and your original claim, will be heard in the Hamilton Superior Court No. 6 on the same date, time, and place as your original claim. The counterclaimant may be given a default judgment against you if you fail to appear at that time.

The counterclaimant's claim is for: ____ Account or Note (copy attached) ____ Damages ____ Wages
____ Set-Off ____ Other (specify) _____

A brief statement of the nature of the counterclaimant/s claim against you is as follows: _____

The counterclaimant demands judgment against the original plaintiff for \$ _____ plus interest from _____, at the rate of _____ % and the court costs of this action.

Date

Signature of Counterclaimant (or attorney)

IMPORTANT INFORMATION CONCERNING THIS CLAIM

1. The Plaintiff or the Defendant may represent themselves individually or be represented by an attorney. A Small Claims Litigant's Handbook is available at the offices of the Clerk or Court for each party's benefit. The Plaintiff and Defendant should bring to trial all documents in their possession or under their control concerning this claim. The Court usually does not conduct a contested trial on the first hearing date except in a request for eviction or, if time permits and both parties are prepared to go forward.
2. A default judgment may be entered against the Defendant if he or she fails to appear for the first hearing or the trial, and if the Plaintiff fails to appear, the case will be dismissed (but may be refiled once more).
3. If the Defendant does not wish to dispute the Plaintiff's claim, the Defendant still may wish to appear to allow the Court to establish the method for paying the judgment.
4. Any request for a continuance of the first hearing or trial by either party should be filed with the Court at least 5 days before the hearing date. Forms requesting a continuance are available at the Court's office. The party requesting a continuance must contact the other party regarding the request.
5. The Defendant must file with the Clerk and provide the Plaintiff with a written statement of any Counterclaim against the Plaintiff at least 7 calendar days before the trial. Forms are available for this purpose.
6. If a settlement of this claim is made out of Court, it should be in writing and signed by the Plaintiff and Defendant. Settlement forms may be obtained from the Court. The settlement shall be filed with the Court and will be entered in the Small Claims Docket and shall have the same effect as a judgment of the Court.
7. The filing of a Small Claim waives the Plaintiff's right to trial by jury. The Defendant may, no later than 10 days following service of the Notice of Claim, make a demand for a trial by jury in writing, in accordance with Indiana Code 33-5-2-7. If a jury trial request has been granted, it may not be withdrawn without consent of both parties. Both parties should then obtain attorneys. The Defendant must pay a \$70 fee at the Clerk's office within 10 days after the jury request has been granted, otherwise, the Defendant gives up the right to a jury trial.

SHERIFF'S RETURN OF COUNTERCLAIM

I hereby certify that on the below date:

_____ I served this Counterclaim by delivering a copy to the Counterclaim Defendant.

_____ I served this Counterclaim by leaving a copy:

_____ at the dwelling or usual place of abode of Counterclaim Defendant;

_____ with a person of suitable age and discretion residing therein, namely _____

_____ and by mailing a copy of the Notice of Claim to the Defendant, by first class mail, to the address on the Counterclaim (date copy mailed if Counterclaim of Claim because _____)

_____ I was unable to serve this Counterclaim because _____.

Date: _____

Sheriff of Hamilton / _____ County

By: _____

NOTICE OF MAILING OF COUNTERCLAIM

I hereby certify this Notice of Counterclaim was mailed via first class mail on the below date to the Counterclaim Defendant at the address shown on the front, allowing sufficient time for it to be received at least seven (7) days prior to the trial set in this case.

Dated: _____, 20__

Clerk, Hamilton County Courts

NOTICE OF RECEIPT OF COUNTERCLAIM

I hereby certify that this Notice of Counterclaim was filed leaving sufficient time to guarantee delivery to the Counterclaim Defendant by first class mail at least seven (7) days prior to the trial set in this case. Accordingly, the Notice of Counterclaim was placed in the Court's file to effect personal service in open court.

Dated: _____, 20__

Clerk, Hamilton County Courts